

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE ENROLLED ACT No. 1504

AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 36-1-8-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 14. Whenever this title requires an action to be taken by a three-fourths (3/4) vote, the number of votes necessary to satisfy the requirement is rounded to the nearest whole number.**

SECTION 2. IC 36-2-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11. (a) At the county fiscal body's annual meeting under IC 36-2-3-7(b)(2), the county auditor shall present the budget estimates filed with him under section 9 of this chapter and the ordinances prepared by him under section 10 of this chapter. He may also present his recommendations concerning the estimates.

(b) At its annual meeting under IC 36-2-3-7(b)(2), the county fiscal body shall fix the county tax rate and make appropriations for the next calendar year by:

- (1) adopting the ordinances presented by the county auditor;
- (2) amending the ordinances presented by the county auditor; or
- (3) substituting other ordinances for those presented by the county auditor.

Each ordinance must be read on at least two (2) separate days before its final adoption. The fiscal body may require the preparer of an

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estimate that is not sufficiently itemized to itemize it in more detail. At least a three-fourths (3/4) vote **(as described in IC 36-1-8-14)** of the fiscal body is required to make an appropriation for an item not contained in an estimate or for a greater amount than that named in an item of an estimate.

(c) At its annual meeting under IC 36-2-3-7(b)(2), the county fiscal body shall consider the statements and recommendations submitted by the county executive under section 4(b) of this chapter and shall then adopt an ordinance, separate from those adopted under subsection (b), fixing:

- (1) the compensation of all officers, deputies and other employees subject to this chapter; and
- (2) the number of deputies and other employees for each office, department, commission, or agency, except part-time and hourly rated employees, whose employment shall be limited only by the amount of funds appropriated to pay their compensation.

SECTION 3. IC 36-2-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 12. **(a)** If, after the adjournment of its annual meeting under IC 36-2-3-7(b)(2), the county fiscal body finds that an emergency requiring additional appropriations exists, it may make additional appropriations at a special meeting. Estimates of the necessary amount of additional appropriations must be prepared and presented in an ordinance as prescribed by this chapter.

(b) Except as provided in subsection (c), an additional appropriation under this section must be passed by at least a majority vote of all elected members of the county fiscal body.

(c) Notwithstanding IC 36-2-4-5, a county fiscal body may adopt an ordinance that requires an additional appropriation under this section to be passed by an affirmative vote of a certain number of members greater than a majority of all elected members of the county fiscal body.

(d) An ordinance adopted under subsection (c) requiring an affirmative vote of a certain number of members greater than a majority of all elected members of the fiscal body to pass an additional appropriation must be adopted or repealed by a majority vote of all elected members of the county fiscal body.

SECTION 4. IC 36-7-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) A municipality that does not have a sufficient survey and plat of its corporate territory may, by a resolution of its legislative body passed by a two-thirds (2/3) vote, order a survey and plat of the municipality. When the survey and plat have been made, the legislative body may adopt them by a resolution

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passed by three-fourths (3/4) vote **(as described in IC 36-1-8-14)**. If a survey and plat of the municipality have already been made, without the order of the legislative body, it may adopt them by a resolution passed by a three-fourths (3/4) vote.

(b) The survey and plat are considered adopted by the municipality for all purposes if a certified copy of the resolution adopting the survey and plat is:

- (1) signed by the municipal executive and clerk;
- (2) attested by the seal of the municipality; and
- (3) recorded with the survey and plat in the office of the recorder of the county in which the municipality is located.

The copy of the resolution must include a statement of the names of the persons voting for and against it.

SECTION 5. IC 36-7-4-610.5, AS ADDED BY P.L.216-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 610.5. This section applies to a proposal, as described in section 602(c) of this chapter, to change the zone maps incorporated by reference into the zoning ordinance. If, **not later than one hundred eighty (180) days** after adoption of the proposal, the legislative body finds that the proposal was adopted as a result of a person's ~~material~~ **intentional** misrepresentation or omission of **material** facts, the legislative body may, **by a three-fourths (3/4) vote (as described in IC 36-1-8-14)**, adopt an ordinance to nullify any change in the zone maps that resulted from the misrepresentation or omission. Such an ordinance may be adopted by the legislative body without being referred to the plan commission for consideration and recommendation under sections 604, 605, and 608 of this chapter.

SECTION 6. IC 36-8-3-3, AS AMENDED BY P.L.35-1999, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) A majority of the members of the safety board constitutes a quorum. The board shall adopt rules concerning the time of holding regular and special meetings and of giving notice of them. The board shall elect one (1) of its members chairman, who holds the position as long as prescribed by the rules of the board. The board shall record all of its proceedings.

(b) The members of the safety board may act only as a board. No member may bind the board or the city except by resolution entered in the records of the board authorizing him to act in its behalf as its authorized agent.

(c) The safety board shall appoint:

- (1) the members and other employees of the police department other than those in an upper level policymaking position;

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(2) the members and other employees of the fire department other than those in an upper level policymaking position;

(3) a market master; and

(4) other officials that are necessary for public safety purposes.

(d) The annual compensation of all members of the police and fire departments and other appointees shall be fixed by ordinance of the legislative body before:

(1) August 20 for a second class city; and

(2) September 20 for a third class city;

of each year for the ensuing budget year. The ordinance may grade the members of the departments and regulate their pay by rank as well as by length of service. If the legislative body fails to adopt an ordinance fixing the compensation of members of the police or fire department, the safety board may fix their compensation, subject to change by ordinance.

(e) The safety board, subject to ordinance, may also fix the number of members of the police and fire departments and the number of appointees for other purposes and may, subject to law, adopt rules for the appointment of members of the departments and for their government.

(f) The safety board shall divide the city into police precincts and fire districts.

(g) The police chief has exclusive control of the police department, and the fire chief has exclusive control of the fire department, subject to the rules and orders of the safety board. In time of emergency, the police chief and the fire chief are, for the time being, subordinate to the city executive and shall obey his orders and directions, notwithstanding any law or rule to the contrary.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Approved: _____

Governor of the State of Indiana

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